

Senate Amendment 3411

PAG LIN

1 1 Amend Senate File 601 as follows:
1 2 #1. Page 32, by inserting after line 28 the
1 3 following:
1 4 <Sec. _____. Section 8A.311, Code 2007, is amended
1 5 by adding the following new subsection:
1 6 NEW SUBSECTION. 21. a. The director may
1 7 authorize the procurement of goods and services in
1 8 which a limitation of vendor liability is provided for
1 9 and set forth in the documents initiating the
1 10 procurement. The director, in consultation with the
1 11 department of management, shall adopt rules setting
1 12 forth the circumstances in which such procurement will
1 13 be permitted and what types of limitations of
1 14 liability are permitted. Rules adopted by the
1 15 director shall establish criteria to be considered in
1 16 making a determination of whether to permit a
1 17 limitation of vendor liability with regard to any
1 18 procurement of goods and services. The criteria, at a
1 19 minimum, shall include all of the following:
1 20 (1) Whether authorizing a limitation of vendor
1 21 liability is necessary to prevent harm to the state
1 22 from a failure to obtain the goods or services sought,
1 23 or from obtaining the goods or services at a higher
1 24 price if the state refuses to allow a limitation of
1 25 vendor liability.
1 26 (2) Whether the limitation of vendor liability is
1 27 commercially reasonable when taking into account any
1 28 risk to the state created by the goods or services to
1 29 be procured and the purpose for which they will be
1 30 used.
1 31 b. Notwithstanding paragraph "a", a limitation of
1 32 vendor liability shall not include any limitation on
1 33 the liability of any vendor for intentional torts,
1 34 criminal acts, or fraudulent conduct.
1 35 c. The rules shall provide for the negotiation of
1 36 a limitation of vendor liability consistent with the
1 37 requirements of this section and any other
1 38 requirements of the department as provided in any
1 39 related documents associated with a procurement of
1 40 goods and services.>
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